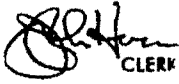


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**

DEC 12 2014

  
CLERK

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ERIN EILER,

Plaintiff,

vs.

AVERA MCKENNAN HOSPITAL and  
TREATING MEDICAL PERSONNEL,

Defendants.

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CIV 14-4172

MEMORANDUM OPINION  
AND ORDER OF DISMISSAL

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On November 19, 2014, Plaintiff filed a pleading entitled "Notice of Removal." The caption and heading of the pleading are from a case appealed from South Dakota Circuit Court to the South Dakota Supreme Court. It appears from the Notice of Removal and the accompanying Memorandum that Plaintiff is attempting to remove a state court case she filed against Defendants for an alleged falsity or error in her medical records at Avera McKennan hospital. No forms of process, pleadings, and orders for this case are attached as required by 28 U.S.C. § 1446(a).

This Court must review all removed actions to confirm that federal jurisdiction is proper. The party seeking removal has the burden of establishing federal subject matter jurisdiction. *In re Business Men's Assur. Co. of Am.*, 992 F.2d 181, 183 (8th Cir. 1993). Removal jurisdiction is statutory and strictly construed. *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100, 108 (1941).

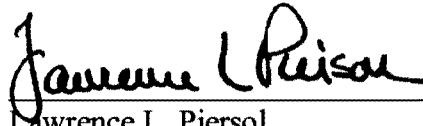
Plaintiff's Notice of Removal suffers from numerous procedural and substantive deficiencies and fails to state a cognizable claim for relief under federal court jurisdiction. First, removal is available only to a defendant. 28 U.S.C. 1441(a) ("Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States

have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”). Further, whether or not a federal court has removal jurisdiction over a matter originally filed in state court must be determined from the face of the plaintiff’s well-pleaded complaint as it existed at the time of removal. *Gaming Corp. Of America v. Dorsey & Whitney*, 88 F.3d 536, 542 (8th Cir. 1996) (“The ‘well-pleaded complaint rule’ requires that a federal cause of action must be stated on the face of the complaint before the defendant may remove the action based on federal question jurisdiction.”). Here, Plaintiff has not provided the Court with a copy of her Complaint. The Court is thus unable to find the subject matter jurisdiction exists in this case. Accordingly,

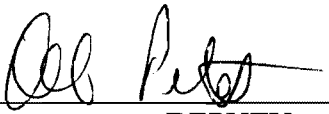
IT IS ORDERED that this matter is dismissed for lack of jurisdiction.

Dated this 12th day of December, 2014.

BY THE COURT:

  
Lawrence L. Piersol  
United States District Judge

ATTEST:  
JOSEPH HAAS, CLERK

BY:   
DEPUTY